

**REMARKS**

Claims 1-4 and 6-8 are pending in the present application. Claim 1 has been amended and claim 5 has been cancelled as a result of this response.

**Claim Objections**

The examiner has objected to claim 1 due to minor informalities. Applicants have made a non-narrowing amendment to independent claim 1 to overcome this objection.

**35 U.S.C. § 103(a) Redmer-Sato Rejection**

Claims 1-3 and 7-8 have been rejected under 35 U.S.C. § 103(a) as being unpatentable over U.S. Patent No. 6,920,228 to Redmer et al. in view of U.S. Patent No. 6,721,433 to Sato. This rejection is moot in light of the amendments to independent claim 1 to include the subject matter of dependent claim 5. Accordingly, reconsideration and withdrawal of this rejection is respectfully requested.

**35 U.S.C. § 103(a) Redmer-Sato-Gorike Rejection**

Claims 4-6 have been rejected under 35 U.S.C. § 103(a) as being unpatentable over Redmer et al. in view of Sato and further in view of U.S. Patent No. 4,571,746 to Gorike et al. This rejection, insofar as it pertains to presently amended independent claim 1, is respectfully traversed for the following reasons.

Amended independent claim 1 recites pre-tensioning the ear plug parts (for example, fourth part 104 and fifth part 105 provided with the ear plugs 106, 107) by a spring which ear plug parts are rotatably arranged (claim 1), so that these parts (104, 105) exert pressure into the ear.

Sato discloses rotatably arranged ear plug parts 17 on a frame 11, but they are not pre-tensioned so that they exert a pressure towards the auditory canal of the ear.

Görike illustrates springs 11 arranged as friction brakes for limiting the movement of telescopic parts 5, 6 of a headband. As stated in column 4, line 2, “to ensure the desired extended position of use...”, i.e. when the size has been adjusted the springs prevent undesired movement and help keep the headband adjusted to the size of the users head so it does not have to be readjusted when used again.

Thus a combination of Görike and Sato leads to Sato headphones with a telescopic frame for adjusting the size of the frame, which telescopic would comprise springs that prevents movement of the telescopic parts when the size of the frame has been adjusted.

These springs would not exert a pretension of the ear plug parts in a direction into the ear since the ear plug parts 21 in Sato are rotatable. The pretension would prevent sliding of the telescopic parts and possibly press paddings 23 (in Sato) against the head of the user. These paddings 23 are not rotatably arranged and are not provided with an earplug that fits in the ear, so the padding do not press into the ear (auditory canal) even if they are under tension.

Accordingly, Applicants respectfully submit that amended independent claim 1 is patentable over the combination of Remer, Sato, and Gorike, for at least the reasons set forth above. Applicants respectfully submit that dependent claims 2-4 and 6-8 are allowable by virtue of their dependency on allowable independent claim 1, for at least the reasons set forth above.

**CONCLUSION**

Accordingly, in view of the above amendments and remarks, reconsideration of the objections and rejections and allowance of each of claims 1-4 and 6-8 in connection with the present application is earnestly solicited.

Pursuant to 37 C.F.R. §§ 1.17 and 1.136(a), Applicant(s) hereby petition(s) for a one (1) month extension of time for filing a reply to the outstanding Office Action and submit the required \$120.00 extension fee herewith.

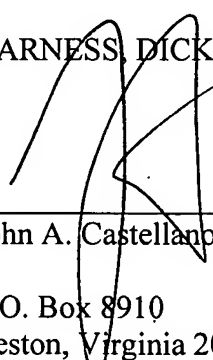
Should there be any outstanding matters that need to be resolved in the present application, the Examiner is respectfully requested to contact John A. Castellano at the telephone number of the undersigned below.

If necessary, the Commissioner is hereby authorized in this, concurrent, and future replies, to charge payment or credit any overpayment to Deposit Account No. 08-0750 for any additional fees required under 37 C.F.R. § 1.16 or under 37 C.F.R. § 1.17; particularly, extension of time fees.

Respectfully submitted,

HARNESS, DICKEY, & PIERCE, P.L.C.

By

  
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